



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,619	12/27/2003	Vladimir S. Moxson		7498

7590 06/09/2009
ADVANCE MATERIALS PRODUCTS, INC.
1890 GEORGETOWN ROAD
HUDSON, OH 44236

EXAMINER

ZHU, WEIPING

ART UNIT	PAPER NUMBER
----------	--------------

1793

MAIL DATE	DELIVERY MODE
-----------	---------------

06/09/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/748,619

Applicant(s)

MOXSON ET AL.

Examiner

WEIPING ZHU

Art Unit

1793

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 May 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 2-4 and 17-19.
Claim(s) withdrawn from consideration: 5-14.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: of the reasons as stated in the final rejection.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☒ Other: See Continuation Sheet.

/George Wyszomierski/
Primary Examiner
Art Unit 1793

/Weiping Zhu/
Examiner, Art Unit 1793

Continuation of 3. NOTE: The limitations of proposed new claim 20 were not contained in the finally rejected claims and would require further search/consideration based on the change in the scope. Therefore, the proposed amendment filed on May 18, 2009 has not been entered.

Continuation of 13. Other: The examiner has responded properly to all applicant's arguments in the applicant's amendment filed on December 22, 2008 after the non-final Office action dated November 4, 2008. The following responses are to applicant's new arguments in the response dated May 18, 2009.

In response to applicant's argument that neither Gottselig et al. (US 4,961,529) nor Toyoda et al. (US Pub. 2003/0084969 A1) relates to titanium matrix composite materials; and Brupbacher et al. (US 5,059,490) in view of Gottselig et al. (US 4,961,529) and further in view of Toyoda et al. (US Pub. 2003/0084969 A1) does not disclose titanium matrix composite articles having improved mechanical properties as claimed in instant claims 2-4 and 17-19, the examiner notes that the prior art teachings with respect to titanium matrix composite material relies on the teaching of Brupbacher et al. rather than those of Gottselig et al. and Toyoda et al. No mechanical properties are recited in the instant claims, and therefore Brupbacher et al. in view of Gottselig et al. and Toyoda et al. are not required to disclose such properties of the titanium matrix composite materials in order to render the claimed materials obvious.

In response to applicant's argument that none of the prior art references contains aluminum-vanadium Al8V5 hard particles which are additionally incorporated into titanium matrix according to instant claim 4, the examiner notes that the titanium matrix composite material of Brupbacher et al. in view of Gottselig et al. and Toyoda et al. contains TiCr2 as recited in instant claim 4. The presence of Al8V5 in the material is not required in the instant claim 4.